JUL 5 1960
JOHN T. DEVINE, CLERK

IN THE

SUPREME COURT OF THE UNITED STATES

October Term, 1960

No. 227

CITY OF AUDUBON PARK, KENTUCKY and BOARD OF TRUSTEES, GEORGE W. STEBBINS, H. PATTERSON POPE, MRS. CLARENCE L. HENDERSON, THEODORE H. AMSHOFF and DR. BURTON M. HEINE, - - - Petitioners,

—Against—

AMERICAN AIRLINES, INC.,
DELTA AIR LINES, INC.,
EASTERN AIR LINES, INC., and
TRANS WORLD AIRLINES, INC., Respondents.

APPENDIX TO BRIEF FOR RESPONDENTS IN OPPOSITION TO PETITION FOR WRIT OF CERTIORARI

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July 2, 1960

BRADFORD-ROBINSON PRINTING CO., INCORPORATED, LOUISVILLE, KY.

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IN THE

UNITED STATES DISTRICT COURT

FOR THE WESTERN DISTRICT OF KENTUCKY

Civil Action No. 5828

American Airlines, Inc., Et Al., - - - Plaintiffs,

v.

City of Audubon Park, Kentucky, Et Al., - Defendants.

FINDINGS OF FACT AND CONCLUSIONS OF LAW.

BROOKS, Chief Judge.

This action was submitted to the Court on the motion of the Plaintiff Air Lines for summary judgment dismissing the Counter Declaration of the Defendants and granting relief to the Plaintiffs in accordance with the demands contained in the prayer of their Complaint. The Court considered the verified Complaint of Plaintiff, the two Affidavits of Henry P. Julliard, the Affidavit of Clay W. Hedges, the Answer and Amended Answer of the Defendants including the Counter Declaration contained therein, the objections of the Plaintiffs to the filing of the Amended Answer, the Replies of the Plaintiffs to the Counter Declaration contained in the Original and the Amended Answer and the written Statement of Counsel for the Plaintiffs. The Court also considered the oral arguments for both Plaintiffs and Defendants at the hearing set for that purpose February 27, 1968.

FINDINGS OF FACT

The Court finds:

1. The Plaintiffs, American Airlines, Inc., Delta Air Lines, Inc., Eastern Air Lines, Inc. and Trans World Air-

lines, Inc., are all corporations incorporated under the laws of the State of Delaware, and none of said Plaintiffs has its principal place of business in the Commonwealth of Kentucky. The Defendant, City of Audubon Park, Kentucky, is a municipal corporation of the Commonwealth of Kentucky, and each of the Defendant Trustees, George W. Stebbins, H. Patterson Pope, Mrs. Clarence L. Henderson, Theodore H. Amshoff and Dr. Burton M. Heine is a citizen and resident of Kentucky. As to each Plaintiff, the amount in controversy in this action exceeds, exclusive of interest and costs, the sum and value of $10,000. An actual controversy exists between the parties with reference to the constitutionality of an ordinance enacted by the City of Audubon Park and the conflict of its terms with Acts of Congress and regulations of the Federal Aviation Administration (hereinafter "FAA") Department of Transportation, adopted pursuant to Acts of Congress.

2. Each of the Plaintiffs is engaged as a common carrier in the transportation of passengers, property and mail of the United States Post Office Department, in interstate commerce to and from Standiford Field in Louisville, Kentucky, and the controversy in this litigation and the statutes, regulations and ordinance giving rise to this controversy affect such interstate commerce.

3. Standiford Field is controlled and operated by the Louisville and Jefferson County Air Board, a public entity, created by the laws of Kentucky. Each of the Plaintiffs, in the conduct of its business as a common carrier, has substantial contracts for the use of the facilities of Standiford Field. Runway 19 of Standiford Field (and its counterpart, Runway 1 which uses the same strip of concrete from the opposite direction) is 7,800 feet in length and is the longest runway at Standiford Field. As shown by the diagram filed as "Julliard Exhibit A" with his Affi-

davit of February 16, 1968, the City of Audubon Park lies astride the extended center line of Runway 19, the nearest limit of said City being 4,800 feet from the end of the runway and the most distant limit being 8,000 feet from the end of the runway. It is necessary for aircraft approaching for a landing on Runway 19 to fly in the navigable airspace over the City of Audubon Park.

4. The City of Audubon Park, on the 20th day of November 1967, enacted its Ordinance No. 4, Series 1967, by the terms of which it declared that it was unlawful for any person, agency, corporation or business entity to fly, operate, or in any manner participate in the flight or operation of any aircraft over the corporate limits of Audubon Park at a height of less than 750 feet and further provided for a fine in the amount of $100 for each offense against the provisions of the ordinance. The Defendant officials of Audubon have publicly and repeatedly announced their intention vigorously to enforce the ordinance; to institute criminal proceedings against the Plaintiffs in the event of any flights lower than said elevation of 750 feet.

5. Pursuant to 49 U.S.C. §§1303, 1304; 1348(a), 1348 (c), FAA has adopted various regulations affecting the navigable airspace in general all over the United States and in particular over Standiford Field and the City of Audubon Park, which regulations control the use of said airspace by all aircraft, including the aircraft of Plaintiffs.

6. By Regulation 14 C.F.R. 1.1, an airport traffic area is defined as the airspace within a horizontal radius of five statute miles from the geographical center of an airport such as Standiford Field, at which a control tower is operating, extending from the surface up to, but not including, 2,000 feet above the surface. The City of Audubon Park is within the airport traffic area of Standiford Field.

Findings of Fact and Conclusions of Law

7. 14 C.F.R. 71.11 provides that control zones listed in Sub Part F, consist of controlled airspace extending upward from the surface of the earth. 14 C.F.R. 71.171 (Sub Part F), specifically designates as a control zone the airspace within a five mile radius of Standiford Field.

8. 14 C.F.R. 91.87(a) and (b) require all persons operating aircraft to and from Standiford Field, when in the airport traffic area, to maintain two-way radio contact with the air traffic control tower maintained by FAA personnel. 14 C.F.R. 91.75 prohibits an operator of an aircraft, except in an emergency, from operating the aircraft in any manner contrary to an air traffic control instruction.

9. 14 C.F.R. 91.87(d)(3) requires an aircraft approaching to land on a runway served by a visual approach slope indicator (hereinafter called "VASI"), to maintain an altitude at or above the VASI glide slope until a lower altitude is necessary for a safe landing. The Regulation by its terms, however, does not prohibit normal bracketing maneuvers above or below the VASI glide slope, which are conducted for the purpose of remaining on the glide slope.

10. There has been installed on Runway 19 the VASI system. It establishes a visual glide path which descends at an angle of three degrees (3°) to the recommended touchdown point on Runway 19. To the pilot of an aircraft approaching too high (above the glide path) the VASI lights appear white; to the pilot of an aircraft approaching too low (below the glide path) the VASI lights appear red; when the aircraft is properly on the glide path the pilot sees a proper combination of red and white lights which blend to emanate a pinkish glow. The normal bracketing maneuvers authorized by Regulation 91.87(d) permit a pilot at times to go below the three degree (3°) VASI effective visual approach slope designated as Line D on

Julliard Exhibit A, but at no time is he authorized to go below the line designated as the VASI approach clearance surface designated as Line E on Julliard Exhibit A.

11. The VASI effective visual approach slope, at or above which (subject to bracketing maneuvers), the FAA regulations require and authorize an aircraft to approach to land on Runway 19, crosses the most distant limit of the City of Audubon Park at an elevation of 442 feet above ground level and crosses the City limit nearest the end of Runway 19 at an elevation of 282 feet above ground level.

12. 14 C.F.R. 91.117 provides that in approaching to land no person may operate an aircraft below a prescribed minimum descent altitude (MDA) unless, when he reaches that altitude on approach to the runway, the threshold of the runway or its approach lights are clearly visible to the pilot. If not clearly visible, the pilot is required to execute a missed approach procedure.

13. The diagram designated Julliard Exhibit A demonstrates that the MDA of 400 feet established by 14 C.F.R. 97.17 for Runway 19 is reached on the glide slope for landing on that runway at a point in the navigable airspace above Audubon Park 7,010 feet distant from Runway 19. A pilot who descends to the 400 foot altitude and then executes a missed approach maneuver because he cannot see the runway or the approach lights necessarily is authorized to fly below 750 feet.

15. FAA approved procedures for landing on Runways 1 and 29 at Standiford Field, as well as on Runway 19, authorize aircraft to execute circling approaches to those runways at elevations over Audubon Park lower than 600 feet, see Affidavit of Clay W. Hedges.

16. In 14 C.F.R. Part 77, which Part is designated "Objects Affecting Navigable Airspace," the FAA has established various surfaces of various elevations. The Regu-

lations provide that any objects constructed into the airspace above these elevations are obstructions to air navigation. The manner in which these surfaces cross the air above the City of Audubon Park is demonstrated on the diagram designated Julliard Exhibit A. In each instance these surfaces are far below the 750 foot elevation provided for in the ordinance.

17. Pilots operating the aircraft of Plaintiffs cannot comply with the FAA regulations and also comply with the provisions of the ordinance of the City of Audubon Park. In order for Plaintiffs' aircraft to make safe landings on Runway 19, pilots must fly in the FAA-regulated navigable airspace above the City of Audubon Park under the 750 foot elevation. Pilots cannot maintain an altitude of 750 feet while over the City of Audubon Park and then descend from that altitude to make a landing on Runway 19, since such rate of descent is too precipitous.

18. Runway 19 is orientated to the prevailing winds affecting Standiford Field and elimination of the use of this runway would seriously curtail air transportation to and from the Louisville metropolitan area. Any attempt to divert traffic from Runway 19 to other runways would create a situation hazardous to persons and property.

19. Each of the Plaintiff Air Lines would be caused great and irreparable damage if each complied with the provisions of the ordinance of the City of Audubon Park, and no one of Plaintiffs has an adequate remedy at law.

CONCLUSIONS OF LAW

1. The Court has jurisdiction of this action pursuant to 28 U.S.C. §§ 1331, 1332 and 1337.

2. The Amendment to the Answer and Counter Declaration tendered by counsel for Defendants at the hearing on the Motion for Summary Judgment is filed over the

objection of the attorneys for the Plaintiffs. Objections and Reply of Plaintiffs to said Amendment are also filed.

[1] 3. Paragraph 2 of the original Counter Declaration seeks to have this Court declare the nature and kind of ordinances the City of Audubon Park might in the future be authorized to adopt. The allegations of this Paragraph do not raise a justiciable issue and the Plaintiffs' motion to strike this Paragraph is sustained.

[2] 4. Paragraph 3 of the Amended Counter Declaration alleges that the Acts of Congress and the regulations of the FAA, Department of Transportation, establishing navigable airspace are void on the alleged theory that, prior to the establishment of navigable airspace, compensation must be paid for such airspace and that no compensation has been paid. This is not a "taking" case. The Plaintiff Air Lines use the navigable airspace established by Congress and by regulations of the FAA in approaching to land at Standiford Field, which field is under the control of the Louisville and Jefferson County Air Board. This Court cannot in this counter-action on behalf of a municipality declare an alleged taking of property of individuals to be compensable or unconstitutional. Paragraph 3 of the Amended Counter Declaration does not state facts upon which the Court can make a declaration of the rights of the parties.

[3] 5. The allegations of the Complaint and the allegations of Paragraph 1 of the Counter Declaration raise issues constituting an actual controversy concerning which pursuant to 28 U.S.C. § 2201 et seq., the Court will make a declaration of rights.

6. Congress has declared a public right of freedom of transit through the navigable airspace of the United States, 49 U.S.C. § 1304, and has defined navigable airspace to in-

clude airspace needed to insure safety in takeoff and landing of aircraft, 49 U.S.C. § 1301(24).

7. Congress has vested in the FAA, Department of Transportation, power to adopt rules and regulations to control the use of navigable airspace, 49 U.S.C. §§ 1303, 1348(a) and 1348(c).

8. As shown in the Fndings of Fact of the Court, the FAA has adopted regulations relative to navigable airspace which authorize and require Plaintiffs, when landing on Runway 19 at Standiford Field, to fly their aircraft in navigable airspace over the City of Audubon Park at altitudes under the elevation of 750 feet.

[4] 9. Enforcement of Ordinance No. 4, Series 1967, of the City of Audubon Park would constitute an intolerable and undue burden upon interstate and foreign commerce. Under the Commerce Clause (Art. I, § 8, cl. 3) of the United States Constitution, the City of Audubon Park has no power to regulate interstate and foreign air traffic in the manner set forth in said ordinance.

10. Pursuant to its power set forth in the Commerce Clause the Congress has adopted valid statutes, and pursuant to such statutes the Federal Aviation Administration, Department of Transportation, has adopted valid regulations. Ordinance No. 4, Series 1967, of the City of Audubon Park is in direct conflict with said statutes and regulations. Under the Supremacy Clause (Art. VI, § 2) of the United States Constitution, such statutes and regulations are the supreme law of the land, and are binding on this Court, anything in the ordinances of the City of Audubon Park to the contrary notwithstanding.

11. The statutes enacted by the Congress clearly expressed an intent fully to preempt the field of law and regulation of interstate and foreign air traffic. The City

of Audubon Park, therefore, has no power to enact Ordinance No. 4, Series 1967.

12. Said Ordinance is unconstitutional and void, and, therefore, is unenforceable.

13. Plaintiffs are entitled to a declaration of rights declaring the ordinance to be unconstitutional and to a permanent injunction in accordance with Paragraph 1 of the demand contained in Plaintiffs' Complaint.

UNITED STATES CONSTITUTION

[Commerce Clause, Art. I, § 8, Cl. 3]

The Cogress shall have power

* * * * * * *

To regulate Commerce with foreign Nations, and among the several States and with the Indian Tribes; . . .

[Supremacy Clause, Art. VI, Par. 2]

This Constitution, and the Laws of the United States which shall be made in Pursuance thereof; and all Treaties made, or which shall be made, under the Authority of the United States, shall be the supreme Law of the Land; and the Judges in every State shall be bound thereby, any Thing in the Constitution or Laws of any State to the Contrary notwithstanding.

28 USC § 1254. Courts of appeals; certiorari; appeal; certified questions.

Cases in the courts of appeals may be reviewed by the Supreme Court by the following methods:

(1) By writ of certiorari granted upon the petition of any party to any civil or criminal case, before or after rendition of judgment or decree; . . .

JUDICIARY AND JUDICIAL PROCEDURE ACT.
[28 USC § 1301 et seq.]

28 USC § 1331. Federal question; amount in controversy; costs.

(a) The district courts shall have original jurisdiction of all civil actions wherein the matter in controversy exceeds the sum or value of $10,000, exclusive of interest and costs, and arises under the Constitution, laws, or treaties of the United States.

(b) Except when express provision therefor is otherwise made in a statute of the United States, where the plaintiff is finally adjudged to be entitled to recover less than the sum or value of $10,000, computed without regard to any setoff or counterclaim to which the defendant may be adjudged to be entitled, and exclusive of interests and costs, the district court may deny costs to the plaintiff and, in addition, may impose costs on the plaintiff.

28 USC § 1332. Diversity of citizenship; amount in controversy; costs.

(a) The district courts shall have original jurisdiction of all civil actions where the matter in controversy exceeds the sum or value of $10,000, exclusive of interest and costs, and is between—

(1) citizens of different States;

(2) citizens of a State, and foreign states or citizens or subjects thereof; and

(3) citizens of different States and in which foreign states or citizens or subjects thereof are additional parties.

(b) Except when express provision therefor is otherwise made in a statute of the United States, where the

plaintiff who files the case originally in the Federal courts is finally adjudged to be entitled to recover less than the sum or value of $10,000, computed without regard to any setoff or counterclaim to which the defendant may be adjudged to be entitled, and exclusive of interest and costs, the district court may deny costs to the plaintiff and, in addition, may impose costs on the plaintiff.

(c) For the purposes of this section and section 1441 of this title, a corporation shall be deemed a citizen of any State by which it has been incorporated and of the State where it has its principal place of business: Provided further, That in any direct action against the insurer of a policy or contract of liability insurance, whether incorporated or unincorporated, to which action the insured is not joined as a party-defendant, such insurer shall be deemed a citizen of the State of which the insured is a citizen, as well as of any State by which the insurer has been incorporated and of the State where it has its principal place of business.

(d) The word "States", as used in this section, includes the Territories, the District of Columbia, and the Commonwealth of Puerto Rico.

28 USC § 1337. Commerce and anti-trust regulations.

The district courts shall have original jurisdiction of any civil action or proceeding arising under any Act of Congress regulating commerce or protecting trade and commerce against restraints and monopolies.

28 USC § 2201. Creation of remedy.

In a case of actual controversy within its jurisdiction, except with respect to Federal taxes, any court of the United States, upon the filing of an appropriate pleading, may declare the rights and other legal relations of any

interested party seeking such declaration whether or not further relief is or could be sought. Any such declaration shall have the force and effect of a final judgment or decree and shall be reviewable as such.

28 USC § 2202. Further relief.

Further necessary or proper relief based on a declaratory judgment or decree may be granted, after reasonable notice and hearing, against any adverse party whose rights have been determined by such judgment.

FEDERAL AVIATION ACT OF 1958

[49 USC §1301 et seq.]

49 USC §1301 Definitions.

As used in this chapter, unless the context otherwise requires—

• • •

(24) "Navigable airspace" means airspace above the minimum altitudes of flight prescribed by regulations issued under this chapter, and shall include airspace needed to insure safety in take-off and landing of aircraft.

49 USC §1303 Consideration of matters in public interest by Administrator.

In the exercise and performance of his powers and duties under this chapter the Administrator shall consider the following, among other things, as being in the public interest:

(a) The regulation of air commerce in such manner as to best promote its development and safety and fulfill the requirements of national defense;

(b) The promotion, encouragement, and development of civil aeronautics;

(c) The control of the use of the navigable airspace of the United States and the regulation of both civil and military operations in such airspace in the interest of the safety and efficiency of both;

(d) The consolidation of research and development with respect to air navigation, facilities, as well as the installation and operation thereof;

(e) The development and operation of a common system of air traffic control and navigation for both military and civil aircraft.

49 USC §1304 Public right of transit.

There is recognized and declared to exist in behalf of any citizen of the United States a public right of freedom of transit through the navigable airspace of the United States.

49 USC §1348 Airspace control and facilities—Use of airspace.

(a) The Administrator is authorized and directed to develop plans for and formulate policy with respect to the use of the navigable airspace; and assign by rule, regulation, or order the use of the navigable airspace under such terms, conditions, and limitations as he may deem necessary in order to insure the safety of aircraft and the efficient utilization of such airspace. He may modify or revoke such assignment when required in the public interest.

* * *

(c) The Administrator is further authorized and directed to prescribe air traffic rules and regulations governing the flight of aircraft, for the navigation, protection, and

identification of aircraft, for the protection of persons and property on the ground, and for the efficient utilization of the navigable airspace, including rules as to safe altitudes of flight and rules for the prevention of collision between aircraft, between aircraft and land or water vehicles, and between aircraft and airborne objects.

49 USC §1486 Judicial review—Orders subject to review; petition for review.

(a) Any order, affirmative or negative, issued by the Board or Administrator under this chapter, except any order in respect of any foreign air carrier subject to the approval of the President as provided in section 1461 of this title, shall be subject to review by the courts of appeals of the United States or the United States Court of Appeals for the District of Columbia upon petition, filed within sixty days after the entry of such order, by any person disclosing a substantial interest in such order. After the expiration of said sixty days a petition may be filed only by leave of court upon a showing of reasonable grounds for failure to file the petition theretofore.

(b) A petition under this section shall be filed in the court for the circuit wherein the petitioner resides or has his principal place of business or in the United States Court of Appeals for the District of Columbia.

(c) A copy of the petition shall, upon filing, be forthwith transmitted to the Board or Administrator by the clerk of the court, and the Board or Administrator shall thereupon file in the court the record, if any, upon which the order complained of was entered, as provided in section 2112 of Title 28.

(d) Upon transmittal of the petition to the Board or Administrator, the court shall have exclusive judisdiction

to affirm, modify, or set aside the order complained of, in whole or in part, and if need be, to order further proceedings by the Board or Administrator. Upon good cause shown and after reasonable notice to the Board or Administrator, interlocutory relief may be granted by stay of the order or by such mandatory or other relief as may be appropriate.

(e) The findings of fact by the Board or Administrator, if supported by substantial evidence, shall be conclusive. No objection to an order of the Board or Administrator shall be considered by the court unless such objection shall have been urged before the Board or Administrator or, if it was not so urged, unless there were reasonable grounds for failure to do so.

(f) The judgment and decree of the court affirming, modifying, or setting aside any such order of the Board or Administrator shall be subject only to review by the Supreme Court of the United States upon certification or certiorari as provided in section 1254 of Title 28.

49 USC §1508 Declaration of national sovereignty in airspace.

(a) The United States of America is declared to possess and exercise complete and exclusive national sovereignty in the airspace of the United States, including the airspace above all inland waters and the airspace above those portions of the adjacent marginal high seas, bays, and lakes, over which by international law or treaty or convention the United States exercises national jurisdiction.

THE FEDERAL AVIATION REGULATIONS
(Title 14, C.F.R.).

14 CFR §1.1 General Definitions.

As used in subchapters A through K of this chapter:

* * *

"Airport traffic area" means, unless otherwise specifically designated in Part 93 (New), that airspace within a horizontal radius of 5 statute miles from the geographical center of any airport at which a control tower is operating, extending from the surface up to, but not including, 2,000 feet above the surface.

* * *

"Navigable airspace" means airspace at and above the minimum flight altitudes prescribed by or under this chapter, including airspace needed for safe takeoff and landing.

14 CFR §11.75 Petitions for Revoking or Modifying Rules or Orders.

(a) Any interested person may petition to revoke or modify any rule or order covered by this subpart. Such a petition must be filed, in triplicate, with the Director and must clearly state the information, views and arguments the petitioner considers necessary to support the requested action and must clearly indicate the effect the action would have on the use of navigable airspace.

(b) A petition filed under this section is processed in the same manner as an original proposal, or in any other manner that the Director considers necessary or desirable.

14 CFR §71.11 Control Zones.

The control zones listed in Subpart F consist of controlled airspace extending upward from the surface of the

earth. A control zone may include one or more airports and is normally a circular area with a radius of five miles and any extensions necessary to include instrument approach and departure paths.

14 CFR, SUBPART F—Control Zones.

14 CFR §71.171 Designation.

The parts of airspace described below are designated as control zones.

* * *

Louisville, Ky.

Within a 5-mile radius of Standiford Field, Louisville, Ky., (Lat. 38°10'33" N, Long. 85°44'12" W); within a 5-mile radius of Bowman Field, Louisville, Ky.; (Lat. 38°13'40" N, Long. 85°39'45"W); within 2 miles either side of the Standiford Field ILS localizer NE course, extending from the Standiford 5-mile radius zone to the INT of the localizer NE course and the Louisville VORTAC 328° radial; within 2 miles either side of the Standiford Field ILS localizer SW course, extending from the Standiford 5-mile radius zone to the OM; within 2 miles either side of the Louisville VORTAC 301° radial, extending from the Standiford 5-mile radius zone to the VORTAC, and within 2 miles either side of the Louisville VORTAC 331° radial, extending from the Bowman Field 5-mile radius zone to the VORTAC.

14 CFR §77.13 Construction or alteration requiring notice.

(a) Except as provided in § 77.15, each sponsor who proposes any of the following construction or alteration shall notify the Administrator in the form and manner prescribed in § 77.17:

(1) Any construction or alteration of more than 200 feet in height above the ground level at its site.

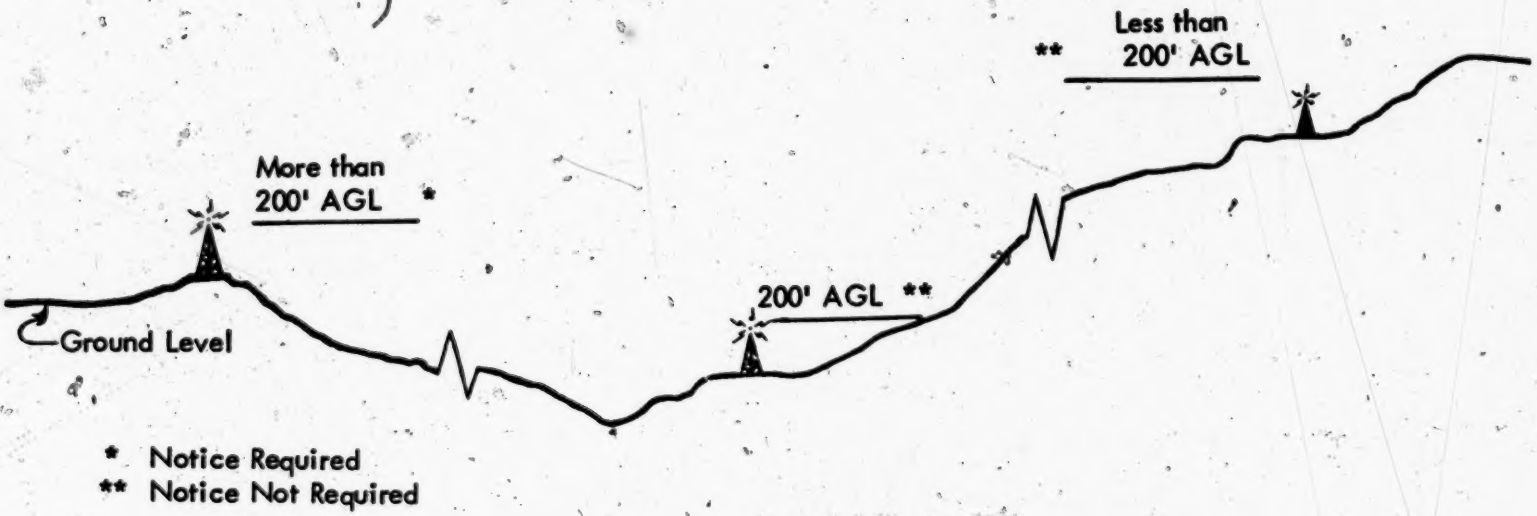
The Federal Aviation Regulations

(2) Any construction or alteration of greater height than an imaginary surface extending outward and upward at one of the following slopes:

(i) 100 to 1 for a horizontal distance of 20,000 feet from the nearest point of the nearest runway of each airport with at least one runway more than 3,200 feet in length, excluding heliports and seaplane bases without specified boundaries, if that airport is either listed in the "Airport Directory" of the current Airman's Information Manual or is operated by a Federal military agency.

[See next two pages for copies of diagrams taken from official FARs.]

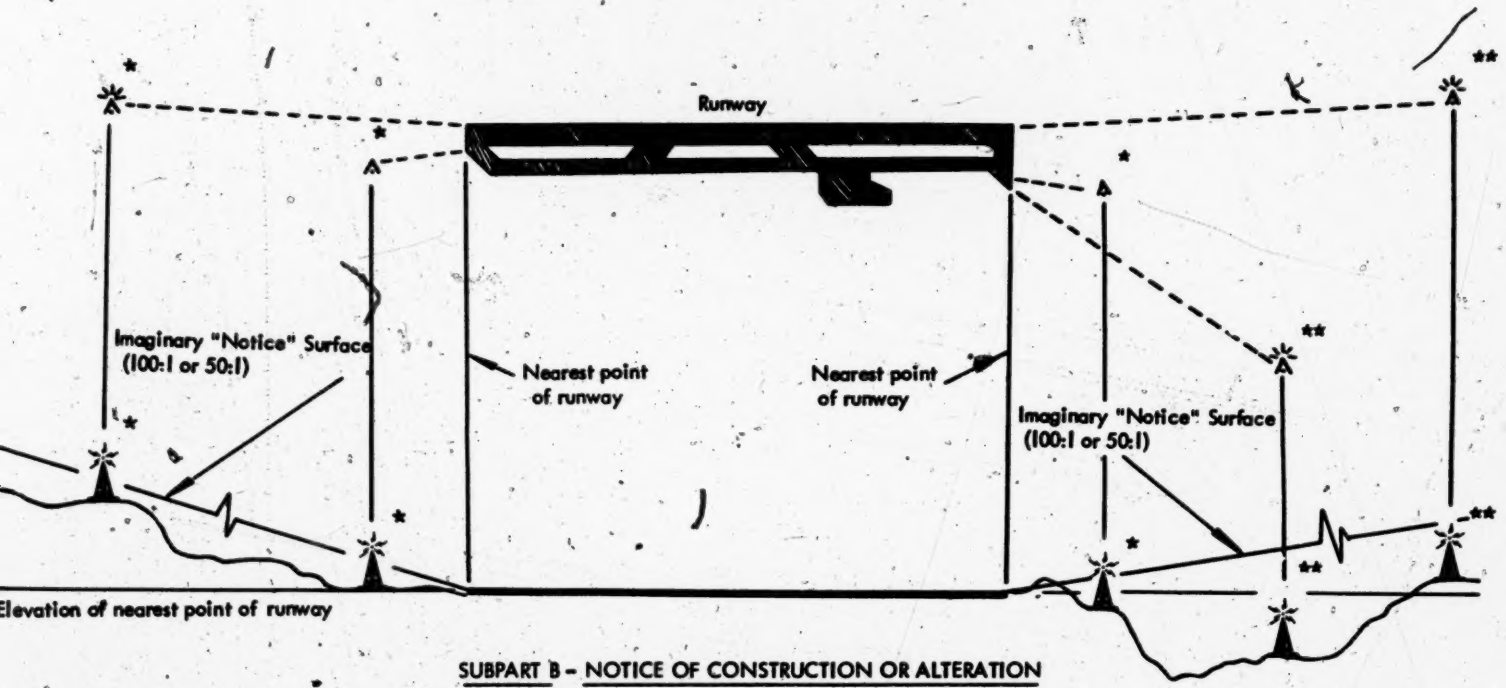
§77.13(a)(1) – Notice Requirement Anywhere



SUBPART B – NOTICE OF CONSTRUCTION OR ALTERATION

§77.13(a)(1) – A notice is required for any proposed construction or alteration that would be more than 200 feet in height above the ground level at its site.

Note: §77.13(a)(4) requires notice of any proposed construction or alteration on an airport listed in the Airport Directory of the current Airman's Information Manual.


Runway
Imaginary "Notice" Surface (100:1 or 50:1)
Nearest point of runway
Nearest point of runway
Imaginary "Notice" Surface (100:1 or 50:1)
Elevation of nearest point of runway

SUBPART B – NOTICE OF CONSTRUCTION OR ALTERATION

§77.13 (a)(2) – A notice is required for any proposed construction or alteration that would be of greater height than an imaginary surface extending outward and upward at one of the following slopes –

(i) 100 to 1 for a horizontal distance of 20,000 feet from the nearest point of the nearest runway of each airport with at least one runway more than 3,200 feet in length.

(ii) 50 to 1 for a horizontal distance of 10,000 feet from the nearest point of the nearest runway of each airport with its longest runway no more than 3,200 feet in length.

* Notice required
** Notice not required

ote: Each airport must be listed in e "Airport Directory" of the urrent Airman's Information Manual, be operated by a Federal military gency. (Heliports and seaplane ses without specified boundaries e excluded).

14 CFR §77.23 Standards for determining obstructions.

(a) An existing object, including a mobile object, is, and a future object would be, an obstruction to air navigation if it is of greater height than any of the following heights or surfaces:

(1) A height of 500 feet above ground level at the site of the construction or alteration.

(2) A height that is 200 feet above ground level or above the established airport elevation, whichever is higher, within three statute miles of the established reference point of an airport, excluding heliports, with its longest runway more than 3,200 in length, and that height increases in the proportion of 100 feet for each additional statute mile of distance from the airport up to a maximum of 500 feet.

(3) A height that is 100 feet above ground level or 100 feet above the elevation of the approach end of the runway, whichever is higher, within an instrument approach area and within three statute miles of the runway end, and that height increases in the proportion of 25 feet for each additional statute mile of distance outward from the runway end up to a maximum of 250 feet and continuing at that height to a distance of ten statute miles from the runway end.

(4) A height which would increase an instrument approach minimum flight altitude.

* * *

(8) The surface of a takeoff and landing area of an airport or any imaginary surface established under § 77.25, § 77.27, §77.28, or §77.29; however, no part of the takeoff and landing area itself shall be considered an obstruction.

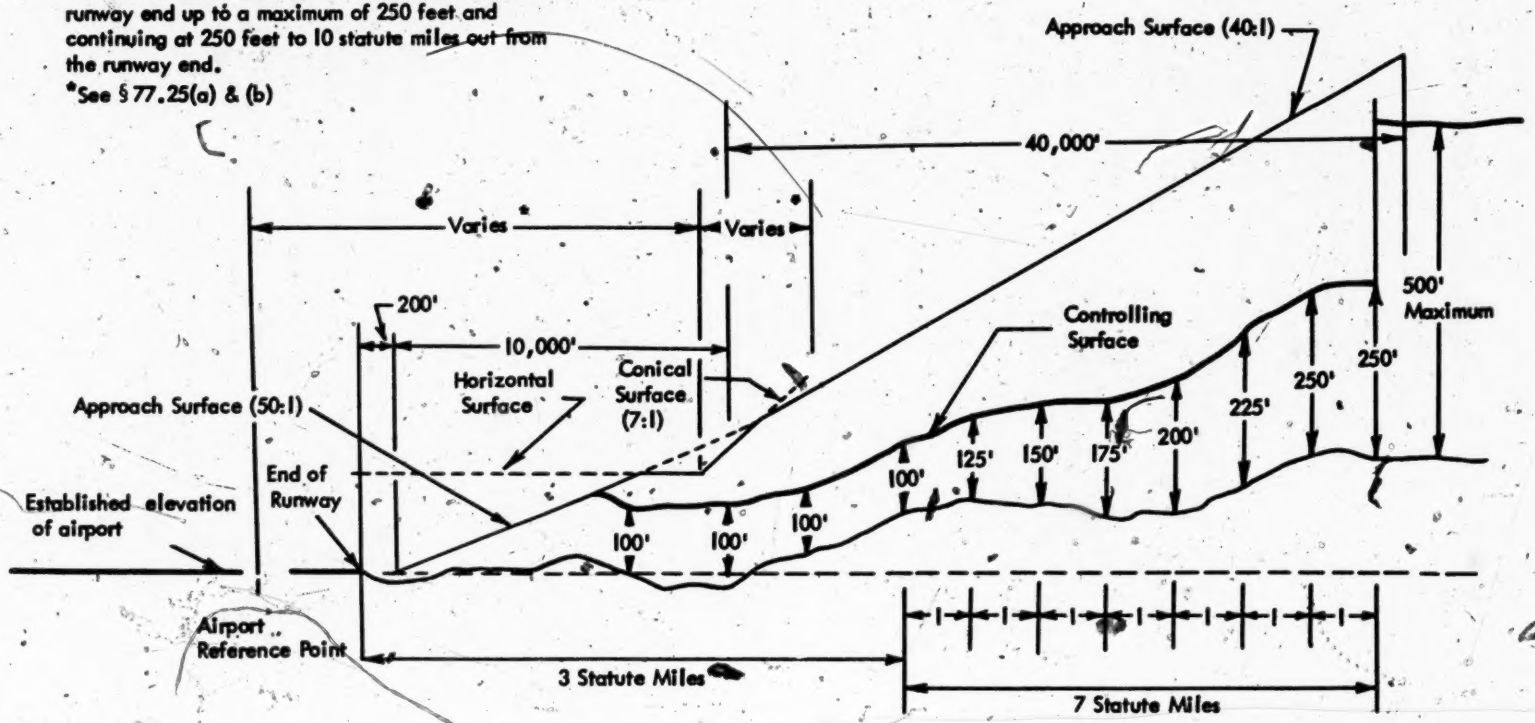
[See next page for copy of a diagram of § 77.23 Standards taken from official FARs.]

§77.23(a)(3) – Within Instrument Approach Areas

SUBPART C – OBSTRUCTION STANDARDS

§ 77.23(a)(3) – An object would be an obstruction to air navigation if of greater height than 100 feet above ground, or 100 feet above the elevation of the approach end of the runway, whichever is higher –
(a) within an instrument approach area, and
(b) within 3 statute miles of the runway end, and
(c) that height increases in proportion of 25 feet for each additional statute mile outward from the runway end up to a maximum of 250 feet and continuing at 250 feet to 10 statute miles out from the runway end.
***See § 77.25(a) & (b)**

(Note: An object would be an obstruction under §77.23(a)(4) at any height that would increase an instrument approach minimum flight altitude.)



The Federal Aviation Regulations

14 CFR §77.27 Civil airport imaginary surfaces related to runways.

The following civil airport imaginary surfaces are established for runways based upon their corrected lengths, whether the airport is constructed to "VFR Airports" standards, and whether the runway is an ILS runway, i.e., one equipped with a precision landing aid such as ILS, ground-controlled approach (GCA) or precision approach radar (PAR).

(a) Primary surface—a surface longitudinally centered on a runway and extending in length 100 feet beyond each end of a runway of an airport constructed to "VFR Airports" standards and 200 feet beyond each end of a runway of any other airport. The elevation of any point on the longitudinal profile of a primary surface, including the extensions, coincides with the elevation of the centerline of the runway, or extension, as appropriate. The width of a primary surface is 200 feet for runways of airports constructed to "VFR Airports" standards. For other airports the width is:

(1) 250 feet, for non-ILS runways, 3,200 feet or less in length.

(2) 400 feet, for non-ILS runways more than 3,200, but not more than 4,200 feet in length.

(3) 500 feet, for non-ILS runways more than 4,200 feet in length.

(4) 1,000 feet, for ILS runways.

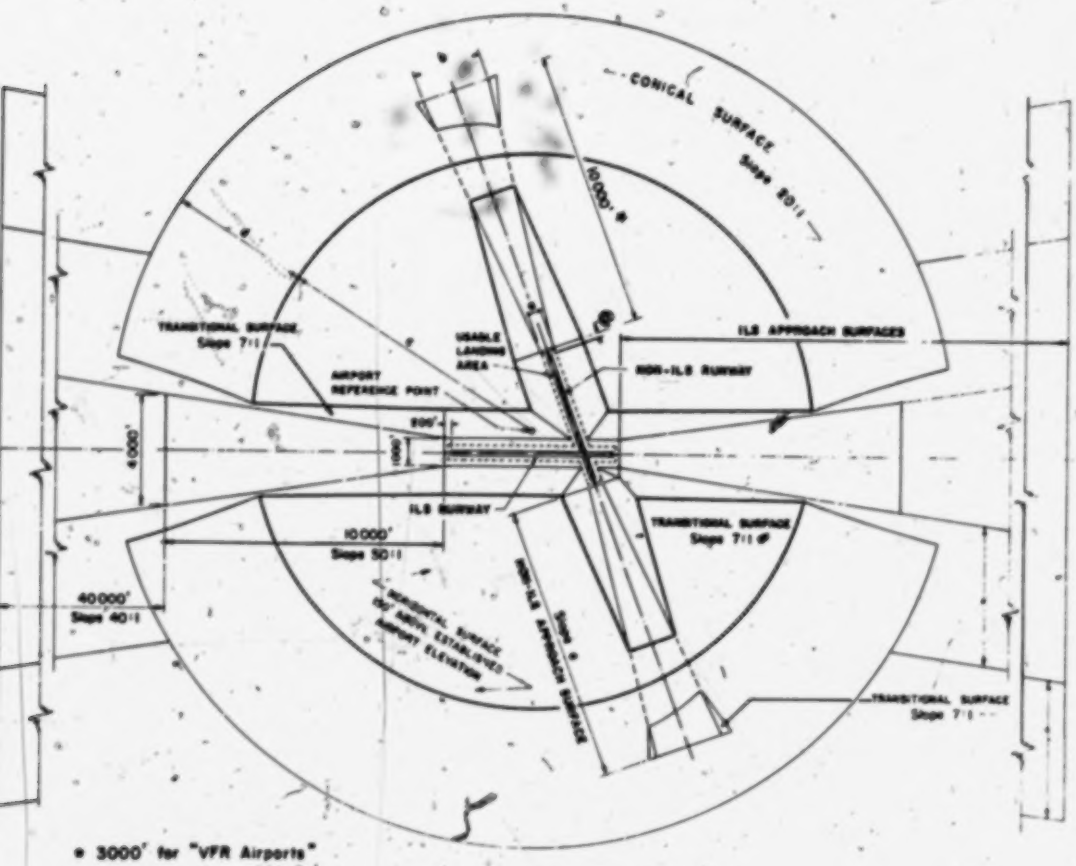
(b) ILS approach surface—a surface longitudinally centered on the extended centerline of an ILS runway, beginning at the end of the primary surface and extending outward and upward at a slope of 50 to 1 for a horizontal distance of 10,000 feet and at a slope of 40 to 1 for an ad-

ditional 40,000 feet. This surface is the width of the primary surface at the beginning and expands uniformly to a width of 16,000 feet at a distance of 50,000 feet from the end of the primary surface.

[See next page for a copy of a diagram of §77.27 standards taken from official FARs.]

§ 77.25 – Civil Airport Imaginary Surfaces related to airport reference points.

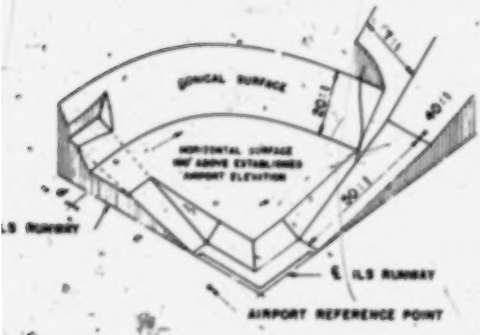
§ 77.27 – Civil Airport Imaginary Surfaces related to runways.



* 3000' for "VFR Airports"

\# Vertical for "VFR Airports"

@ 100' for "VFR Airports"



Longest runway	Distance in feet				Slope
	a	b	c	d	e
VFR type	200	500	5000	3000	20:1
3200' & less	250	2250	5000	3000	20:1
Over 3200' to 4200'	400	2400	7000	5000	40:1
Over 4200' to 6000'	500	2500	7000	5000	40:1
Over 6000' to 7500'	500	2500	11500	7000	40:1
Over 7500'	500	2500	13000	7000	40:1

14 CFR §91.75 Compliance with ATC clearances and instructions.

(a) When an ATC clearance has been obtained, no pilot in command may deviate from that clearance, except in an emergency, unless he obtains an amended clearance. However, except in positive controlled airspace, this paragraph does not prohibit him from canceling an IFR flight plan if he is operating in VFR weather conditions.

(b) Except in an emergency, no person may, in an area in which air traffic control is exercised, operate an aircraft contrary to an ATC instruction.

(c) Each pilot in command who deviates, in an emergency, from an ATC clearance or instruction shall notify ATC of that deviation as soon as possible.

(d) Each pilot in command who (though not deviating from a rule of this subpart) is given priority by ATC in an emergency, shall submit, within 48 hours after the emergency, a detailed report of the emergency to the nearest FAA Regional Office.

14 CFR §91.87 Operation at airports with operating control towers.

(a) **General.** Unless otherwise authorized or required by ATC, each person operating an aircraft to, from, or on an airport with an operating control tower shall comply with the applicable provisions of this section.

(b) **Communications with control towers operated by the United States.** No person may, within an airport traffic area, operate an aircraft to, from, or on an airport having a control tower operated by the United States unless two-way radio communications are maintained between that aircraft and the control tower. However, if the aircraft radio fails in flight, he may operate that aircraft and land

if weather conditions are at or above basic VFR weather minimums, he maintains visual contact with the tower, and he receives a clearance to land. If the aircraft radio fails while in flight under IFR, he must comply with §91.127.

* * *

(d) **Minimum Altitudes.** When operating to an airport with an operating control tower, each pilot of—

* * *

(2) A turbine-powered airplane or a large airplane approaching to land on a runway being served by an ILS, shall, if the airplane is ILS equipped, fly that airplane at an altitude at or above the glide slope between the outer marker (or the point of interception with the glide slope, if compliance with the applicable distance from clouds criteria requires interception closer in) and the middle marker; and,

(3) An airplane approaching to land on a runway served by a visual approach slope indicator, shall maintain an altutude at or above the glide slope until a lower altitude is necessary for a safe landing.

However, subparagraphs (2) and (3) of this paragraph do not prohibit normal bracketing maneuvers above or below the glide slope that are conducted for the purpose of remaining on the glide slope.

* * *

(h) **Clearances required.** No pilot may, at an airport with an operating control tower, taxi an aircraft on a runway, or takeoff or land an aircraft, unless he has received an appropriate clearance from ATC. A clearance to "taxi to" the runway is a clearance to cross any intersecting runways but is not a clearance to "taxi on" the assigned runway.

14 CFR §91.115 ATC clearance and flight plan required.

No person may operate an aircraft in controlled airspace under IFR unless—

(a) He has filed an IFR flight plan; and

(b) He has received an appropriate ATC clearance.

14 CFR §91.117 Limitations on use of instrument approach procedures (other than Category II).

(a) **General.** Unless otherwise authorized by the Administrator, each person operating an aircraft using an instrument approach procedure prescribed in Part 97 of this chapter shall comply with the requirements of this section. This section does not apply to the use of Category II approach procedures.

(b) **Descent below MDA or DH.** No person may operate an aircraft below the prescribed minimum descent altitude or continue an approach below the decision height unless—

(1) The aircraft is in a position from which a normal approach to the runway of intended landing can be made; and

(2) The approach threshold of that runway, or approach lights or other markings identifiable with the approach end of that runway, are clearly visible to the pilot.

If, upon arrival at the missed approach point or decision height, or at any time thereafter, any of the above requirements are not met, the pilot shall immediately execute the appropriate missed approach procedure.

14 CFR §97.17 (32 FR 11, 319; August 4, 1967).

ILS STANDARD INSTRUMENT APPROACH PROCEDURE

Bearings, headings, courses and radials are magnetic. Elevations and altitudes are in feet MSL. Ceilings are in feet above airport elevation. Distances are in nautical miles unless otherwise indicated, except visibilities which are in statute miles.

If an instrument approach procedure of the above type is conducted at the below named airport, it shall be in accordance with the following instrument approach procedure, unless an approach is conducted in accordance with a different procedure for such airport authorized by the Administrator of the Federal Aviation Agency. Initial approaches shall be made over specified routes. Minimum altitutes shall correspond with those established for en route operation in the particular area or as set forth blow.

Transition				Ceiling and visibility minimums			
From—	To—	Course and distance	Minimum altitude (feet)	Condition	2-engine or less		More than 2-engine, more than 65 knots
					65 knots or less	More than 65 knots	
Louisville VOR..	Harbor Int.	Direct	2200	T-dn	300-1	300-1	200-½
Nabb VOR.....	Harbor Int (final)..	Direct	2200	C-dn	600-1	600-1	600-1½
Henryville Int...	Harbor Int	Via LOU, R-332°. and SDF.		S-dn-19*.	400-1	400-1	400-1
		LOC crs.....	2600	A-dn	800-2	800-2	800-2

Radar available.

Procedure turn E side of Ncrs, 101° Outbnd, 190° Inbnd, 2200′ within 10 miles N of Harbor Int.

Minimum altitude over Harbor Int on final approach crs, 2200′; over Cave Hill Int, 1500′.

Crs and distance, Harbor Int to Runway 19, 190°—5.3 miles; Cave Hill Int to Runway 19, 190°—3 miles.

If visual contact not established upon descent to authorized landing minimums or if landing not accomplished within 5.3 miles after passing Harbor Int, make a right-climbing turn to 2500′ on a heading of 260°, intercept R 279°, LOU VOR and proceed to Corydon Int, hold W, 1-minute right turns, 099° Inbnd.

Alternate missed approach: Climb to 2100′ on S crs of ILS to SD LOM, hold N, 1-minute right turns, 190° Inbnd.

NOTE: This procedure authorized only for aircraft equipped to receive ILS and VOR simultaneously.

*400-3 4 authorized for Runway 19 with operative HIRL, except for 4-engine turbojets.

City, Louisville; State, Ky.; Airport name, Standiford Field; Elev., 497; Fac. Class., ILS, Ident., I-SDF; Procedure No. LOC(BC) Runway 19, Amdt. 7; Eff. date, 26 Aug. 67; Sup. Amdt. No. ILS-19 (back crs) Amdt. 6; Dated, 10 Apr. 65.

[See next page for copy of the Approach Chart from Eastern Airlines' Flight Operations Manual, on which the above information is consolidated and presented in a more comprehensible form.]

Jeppesen Approach Chart — AUG 18-67 (11-2)

LOUISVILLE, KY.

STANDIFORD Tower 120.3 122.7G 126.2 257.8

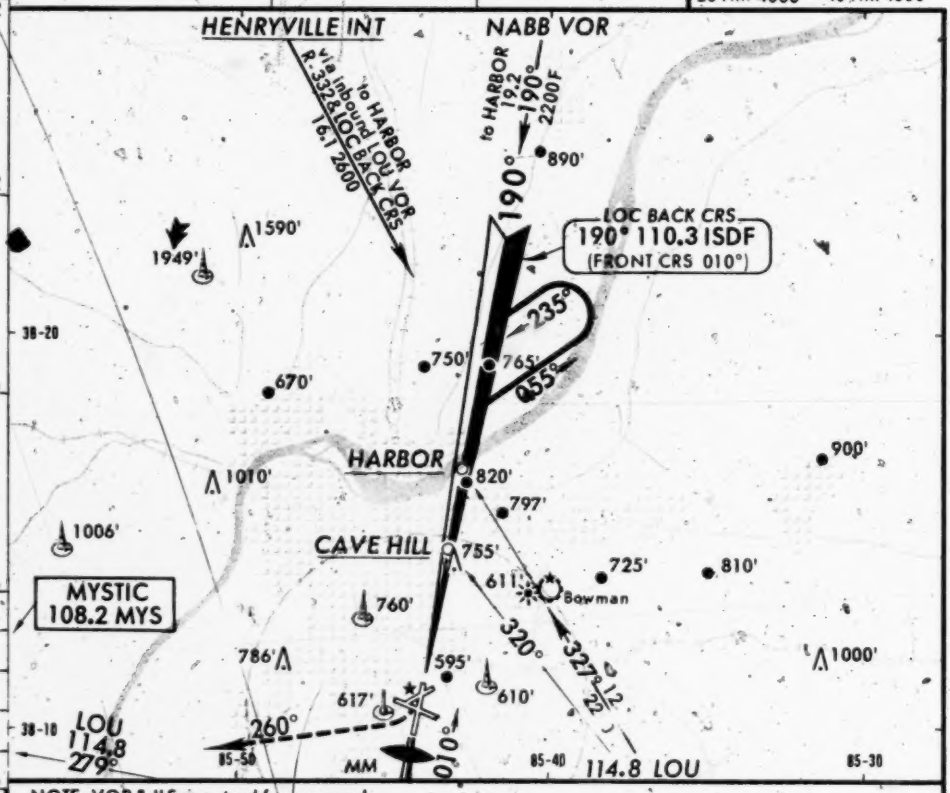
Apt. Elev. 497'

Var. 01°E Eff Aug 26

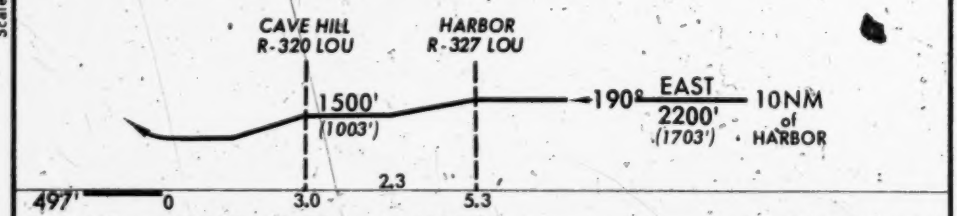
STANDIFORD LOC (BACK CRS) Rwy 19

LOC 110.3 ISDF

Approach (R)		Departure (R)		Ground		SAFE ALTITUDE
124.5	343.8	119.0	327.0	121.7	348.6	20 NM 4000' 40 NM 4000'



NOTE: VOR & ILS required for approach.



PULL UP: turn RIGHT to 2500 feet on 260° to intercept and proceed outbound on LOU VOR R-279 to CORYDON INT (24.0 DME or MYS VOR R-022), hold WEST on LOU VOR R-279, RIGHT turns, or as directed.

SCHEDULED AIR CARRIER & PRIVATE OPERATORS STRAIGHT-IN RWY 19	LANDING MINIMA FAA AIRCRAFT	ALL OPERATORS CIRCLING	NON-SCHEDULED A.C. ST-IN RWY 19
400-3/4	P 1&2 Eng to 65 Kt; R 1&2 Eng over 65 Kt; O P 3 & 4 Engine	600-1	400-1
	J 1 & 2 Engine; J 3 Engine	600-1½	
400-1	E T 4 Engine	600-2	400-1

Ground speed - knots	60	80	100	120	140	160	180	200
HARBOR to Pull-up	5.3	5:18	3:59	3:11	2:39	2:17	1:59	1:46	1:35

CEILING/ALTITUDE CONVERSION							
QFE	400	600	800				
QNH	897	1097	1297				

CHANGES: Henryville Int trans; altitude over Cave Hill.

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The Federal Aviation Regulations

14 CFR §121.133 Preparation.

(a) Each domestic and flag air carrier shall prepare and keep current a manual for the use and guidance of flight and ground operations personnel in conducting its operations.

(b) Each supplemental air carrier and commercial operator shall prepare and keep current a manual for the use and guidance of flight, ground operations, and management personnel in conducting its operations.

THE ORDINANCE

CITY OF AUDUBON PARK, KENTUCKY

ORDINANCE No. 4, SERIES 1967

AN ORDINANCE CONCERNING HEALTH AND SAFETY ESTABLISHING A MINIMUM HEIGHT FOR OPERATION OF AIRCRAFT OVER THE CORPORATE LIMITS OF THE CITY OF AUDUBON PARK, KENTUCKY, PROVIDING ENFORCEMENT PROVISIONS THEREFOR AND ESTABLISHING PENALTIES FOR VIOLATIONS.

The Board of Trustees of the City of Audubon Park does ordain as follows:

SECTION ONE

It shall be unlawful for any person, agency, corporation or business entity to fly, operate, or in any manner participate or engage in the flight or operation of any aircraft over the corporate limits of the City of Audubon Park at a height of less than seven hundred and fifty (750) feet.

SECTION TWO

Not by way of limitation but for purposes of explicitness, definiteness and certainty the terms person, agency, corporation or business entity shall include any airport, airboard or governing body thereof, from which or to which any aircraft violating Section One hereof first makes landing or takeoff after or prior to such violation. Said airport, airboard or governing body thereof shall be as equally, concurrently and jointly guilty of violation of Section One hereof as the owner and operator of the violating aircraft.

SECTION THREE

Section One shall not apply to passengers of said aircraft or to violations occasioned by bona fide emergencies.

SECTION FOUR

Any person, agency, corporation or business entity guilty of violation of this Ordinance shall be fined one hundred ($100.00) dollars for each offense.

SECTION FIVE

This Ordinance shall take effect from, on and after the date of its passage, posting and publication.

(s) Geo. W. Stebbins
Chairman, Board of Trustees,
City of Audubon Park, Kentucky

ATTEST:

(s) Martha S. Miller,
Clerk, Board of Trustees
City of Audubon Park, Kentucky

JEFFERSON CIRCUIT COURT

CHANCERY BRANCH, FIRST DIVISION

No. 268,713

H. L. BRUNSON, et al., - - - - Petitioners.

JUDGMENT.

This cause coming on to be heard and it appearing to the Court from the records herein that due notice of the filing of the petition herein and the object thereof has been published in two issues of the Louisville Times on the 22nd and 24th days of March, said newspaper being published in and of general circulation in Jefferson County, Kentucky, and it further appearing to the Court, and the Court being satisfied from the verified petition herein that the population within the boundary described in said petition is sufficient to meet the requirements of law in such case, and no objection having been interposed herein, it is now ordered, adjudged and decreed:

1. That a town by the name of Audubon Park be and is hereby established as a municipal corporation of the sixth class within the following described boundary as more fully shown by a map filed with the petition herein, said boundary being described as follows, to-wit:

BEGINNING at a point in the East side of Preston Street Road 200 feet more or less North of the North side of the intersection of Audubon Parkway and Preston Street Road, running thence in a Southerly direction along the Eastern side of Preston Street Road 850 feet more or less to the intersection of the Southern Railway right of way and Preston Street Road; thence along the Northerly line of the Southern Railway right of way 1350 feet more or less to the intersection of the

Southern Railway right of way and the Southerly line of Cardinal Drive; thence with the Southerly line of Cardinal Drive in an Easterly direction 2600 feet more or less to a point 280 feet Easterly of the Easterly line of Dove Road at the intersection with Cardinal Drive; thence in a Northerly direction in a line parallel with the Easterly line of lot #287 of Audubon Park, a plat of which is recorded in plat and subdivision book 8, pages 143-144-145, in the office of the Clerk of the County Court, Jefferson County, Kentucky, 250 feet more or less to a point in the Southerly line of lot #60, block 208 in said Audubon Park, 283 feet more or less East of the East line of Dove Road; thence in a Southwesterly direction along the Southerly line of said lot 60, block 208, 283 feet more or less to a point in the Easterly line of Dove Road; thence with the Easterly line of Dove Road, in a Northwesterly direction 900 feet more or less to a point at the Northeast corner of the intersection of Dove Road and Chickadee Road; thence along the Easterly line of Chickadee Road 1575 feet more or less to a point at the Southeast corner of the intersection of Chickadee Road and Hess Lane; thence along the Southerly line of Hess Lane 725 feet more or less to a point where said line would be intersected by the back lines of lots 187 to 190A, inclusive, Block 111, Audubon Park, if extended in a Northerly direction; thence with said back lines as extended, in a Southerly direction 625 feet more or less to a point in the back line of said lot 187, block 111, Audubon Park, where said line is met by the back lines of lots 1A; 2 to 18 inclusive, block 111, Audubon Park; thence with said back lines in a Southwesterly direction 1725 feet more or less to a point of beginning.

Judgment

2. There are hereby appointed as the Board of Trustees of said town the following named persons resident therein, to-wit: H. L. Brunson, Lelia R. Chandler, A. A. Hermes, Chas. T. Lanham and Thos. F. Gordon; as Police Judge thereof, John J. Hession; as Marshal thereof, Henry Battle; and as Assessor thereof, A. R. Remmers, each of which said trustees and officers shall hold their respective offices until the next general election at which officers for cities and towns may be elected and until such successors have been elected and qualified.

The qualification of said officers shall be in the manner provided by law by taking the respective oaths of office and executing the bonds and obligations prescribed by law, a record of which shall be entered upon the records of said town.

(s) Gilbert Burnett,
Judge.

Dated April 18, 1941
ENT. JUDGT. BOOK No. 93

Page 183 Attest:
John A. Alsmiller, Clerk
By M. M. Shaughnessy,
Deputy Clerk

A Copy
Attest: Elmer N. Carrell, Clerk
Jefferson Circuit Court
Louisville, Kentucky
By W. Morris, D. C.

Judgment

Commonwealth of Kentucky,
County of Jefferson } SS. Official Certificate

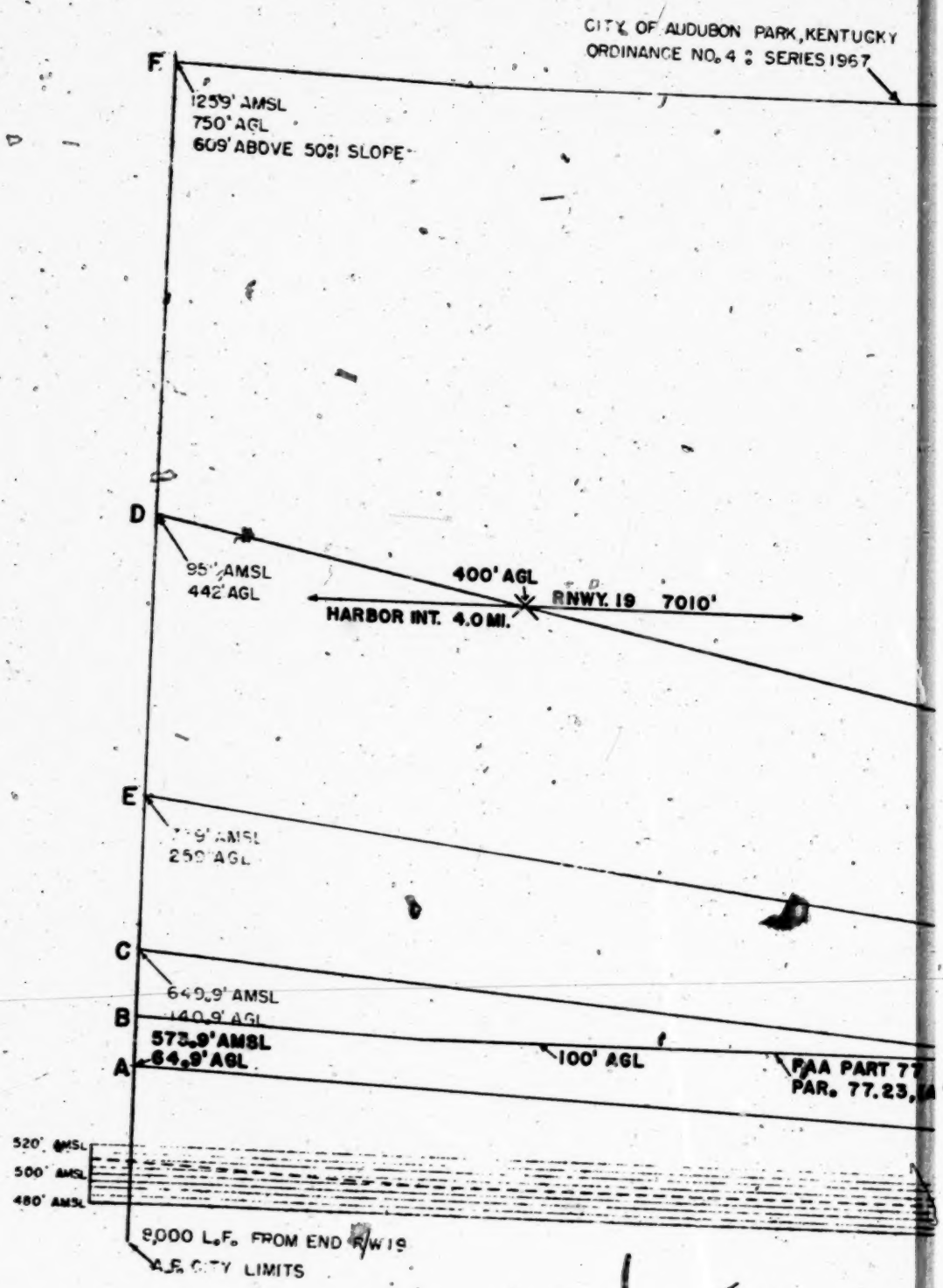
I, ELMER N. CARRELL, Clerk of Jefferson Circuit Court, in and for the Commonwealth and County aforesaid do hereby certify that the attached is a full, true and correct copy of Judgment, entered in Court, April 12, 1941, and noted on Civil Docket in action #268-713, wherein, H. L. Brunson, Et Al. v. On Petition as appears of record in my office.

(s) Gilbert Burnett, Judge.

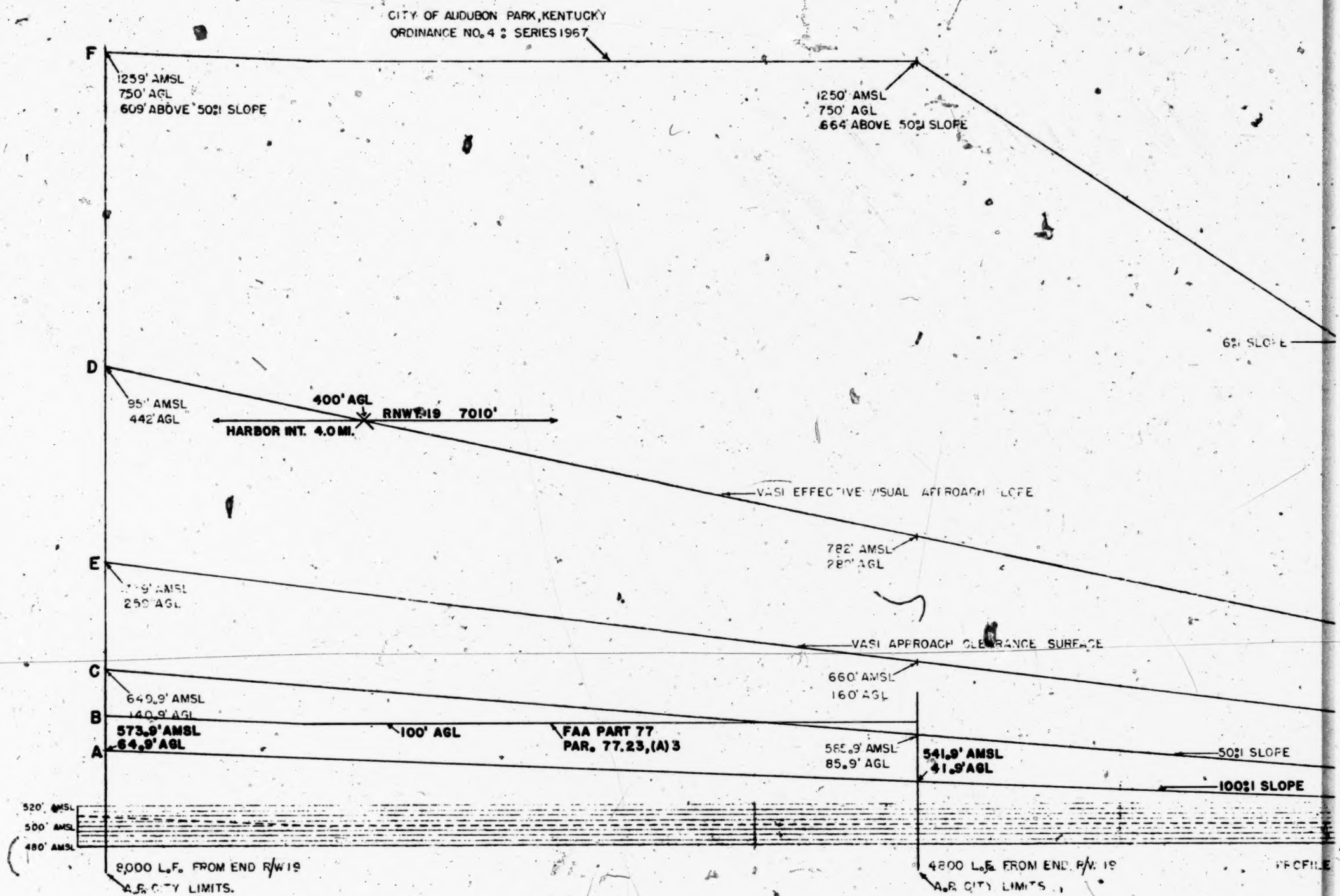
In TESTIMONY WHEREOF, I have hereunto set my hand and affixed the seal of the Court aforesaid, at the city of Louisville, this 19th day of June 1969.

(s) Elmer N. Carrell, Clerk.

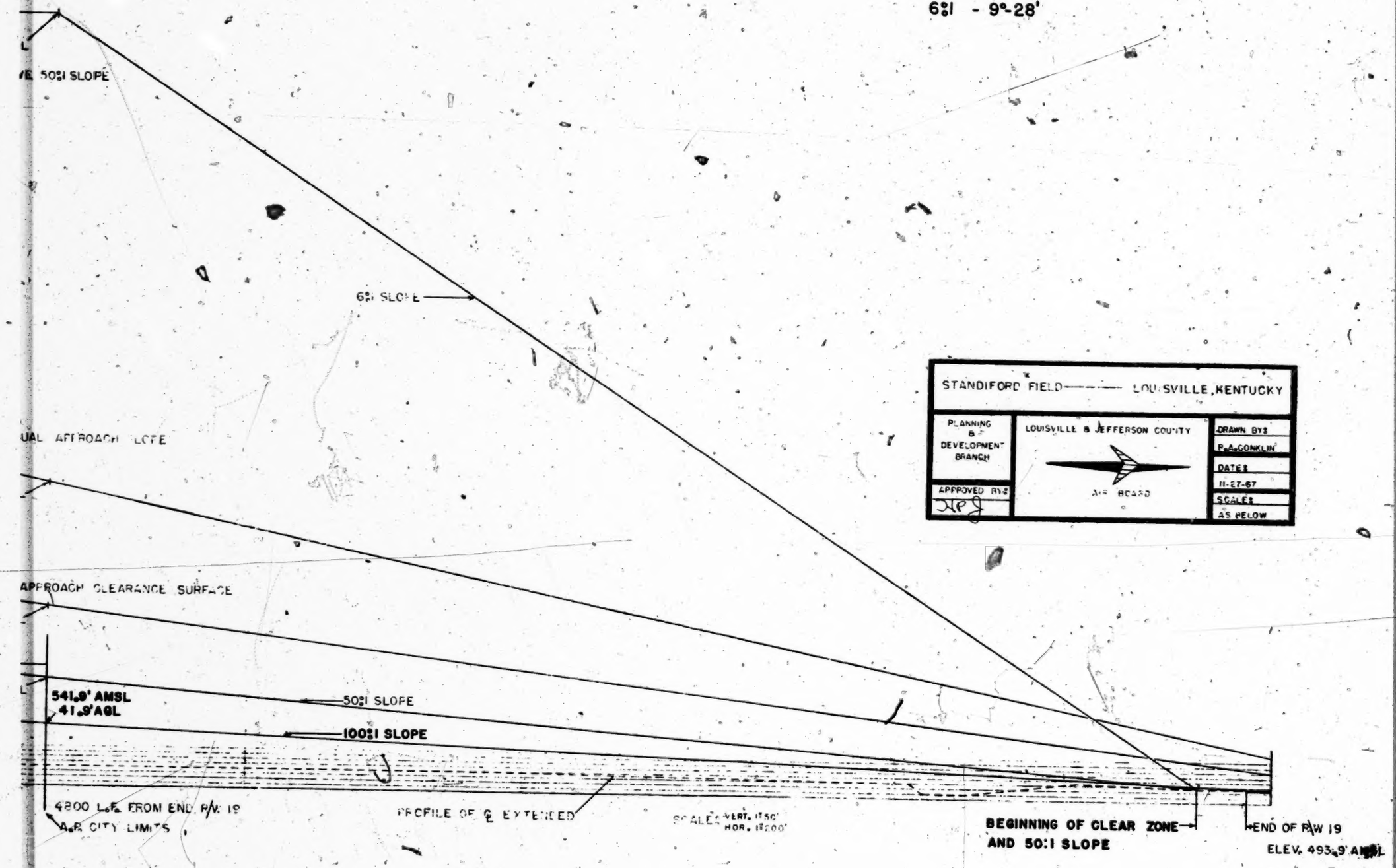
JULLIARD EXHIBIT "A"



JULLIARD EXHIBIT "A"



VEVAS - 3° = 19:1
VACS - 1°-45' = 33:1
50:1 - 1°-09'
100:1 - 0°-34'
6:1 - 9°-28'



STANDIFORD FIELD —— LOUISVILLE, KENTUCKY

PLANNING & DEVELOPMENT BRANCH	LOUISVILLE & JEFFERSON COUNTY AIR BOARD	DRAWN BY: P.A. CONKLIN
APPROVED BY:		DATE: 11-27-67
		SCALE: AS BELOW